

COURT MINUTES OF SENTENCING HEARING

UNITED STATES of AMERICA,

v.

CASE NO. 97-CR-98

RANDY M. YAGER.

HON. J. P. STADTMUELLER PRESIDING

DATE: July 26, 2016

TIME SCHEDULED: 8:30 a.m.

COURT DEPUTY/CLERK: Carla Baumel

TIME CALLED: 8:31 a.m.

COURT REPORTER: Sheryl Stawski

TIME RECESSED: 8:48 a.m.

GOVERNMENT BY: Carol Kraft and Laura Kwaterski

TIME RECONVENED: 8:55 a.m.

DEFENDANT BY: Stephen Hurley

TIME FINISHED: 9:05 a.m.

PROBATION BY: Daniel Dragolovich

Notes:

8:32 a.m. Appearances; court puts background of case on record, including defendant having pled guilty to Counts One and Two of the Second Superseding Indictment; court asks whether parties have had an opportunity to review the revised presentence report.

8:33 Parties have reviewed those materials and have no objections to the facts as presented; however defense counsel notes the letter that it submitted in connection with the same; Court acknowledges the contents of that letter and herewith adopts the facts in the report.

8:33 Court notes applicable guidelines:

Total Offense Level: 43

Criminal History Category: VI

Life imprisonment

At least 2 years but not more than 5 years supervised release

\$25,000.00 to \$250,000.00 fine

\$100.00 special assessment per Count for a total of \$200.00

Court notes defendant's objection regarding acceptance of responsibility credit; however, as everyone acknowledges, this change will not effect the guideline ranges. Court concludes that acceptance of responsibility credit should be granted; the sentence under the guidelines will remain the same.

8:37 Government requests clarification.

8:38 Court notes that the guidelines score will not reflect obstruction points and will reflect acceptance of responsibility credit.

8:39 Parties acknowledge the Court's decision and have no further comments; Court responds; as the Court's conclusions do not affect the guideline sentencing ranges, the Court accepts the probation department's recommendations and adopts them, as modified herein.

8:42 Court notes parties' joint sentencing agreement.

8:43 Defense counsel has no further comments; defendant has no further comments.

8:43 Government comments and requests permission to read a letter from a victim's family member; Court grants permission; government reads letter.

8:47 Court discusses the proposed conditions of supervised release, which have been circulated to the parties.

8:47 Government's counsel has no comment with respect to the proposed conditions; defense counsel has not had opportunity to review them.

8:48 Court grants short recess for the parties to review the proposed conditions.

8:48 Court stands in recess

8:55 Court resumes; Court discusses statements of the parties, facts of the case, and facts as presented in presentence report; Court concurs with the parties' joint proposal that an agreed sentence of 15 years is sufficient.

8:59 Court imposes the following formal sentence:

Imprisonment: 180 months as to each of Counts One and Two of the Second Superseding Indictment to be served concurrent with one another for a total term of imprisonment of 180 months.

Supervised Release: 5 years as to each of count of conviction, which be served concurrently, for a total term of 5 years of supervised release; during this time the defendant shall comply with the conditions earlier circulated and not objected to by the parties; should there be a need for a further modification of these terms, at the time of Mr. Yager's release from the custodial portion of his sentence, those may be addressed as part of his release plan.

Fine will be waived.

Special assessment of \$200.00, \$100.00 per count

9:02 Defense counsel requests placement at FCI Oxford.

9:03 The Court will so recommend; Court advises defendant of right to appeal within 14 days.

9:04 Government's counsel comments on the ATF's continuing efforts to monitor people who are part of the criminal justice process.

9:05 Court stands in recess.

FORMAL SENTENCE

Custody of Bureau of Prisons

180 months as to Count One

180 months as to Count Two

Supervised Release/Probation

5 years on Count One

5 years on Count Two

which shall operate to run concurrently for a total term of 180 months which shall operate to run concurrently for a total of 5 years

Fine

Terms: \$0.00

- ☒ Fine waived due to defendant's inability to pay.
- ☐ Interest on fine waived.
- ☐ Deft. To participate in FBP Inmates' Financial Responsibility Program
- ☐ Payments to apply to special assessment and then to the fine or restitution (if applicable)
- ☐ Court imposes COSTS of incarceration, community confinement and supervision

Restitution

Restitution: None

Payee:

Special Terms:

Special Conditions of Supervised Release/Probation

- | | |
|---|---|
| <input checked="" type="checkbox"/> report in 72 hours | <input checked="" type="checkbox"/> other: no association with those engaged in criminal activity |
| <input checked="" type="checkbox"/> no firearms | <input checked="" type="checkbox"/> other: permit reasonable probation visitation |
| <input type="checkbox"/> report conviction to employer | <input checked="" type="checkbox"/> other: no federal, state or local crime |
| <input checked="" type="checkbox"/> no illegally possess or use control. subst. | <input checked="" type="checkbox"/> other: notify probation at least 10 days prior to change of residence and/or employment |
| <input checked="" type="checkbox"/> drug testing | <input checked="" type="checkbox"/> other: no informant agreement with the government |
| <input type="checkbox"/> no tavern | <input checked="" type="checkbox"/> other: no leaving the district without permission |
| <input type="checkbox"/> halfway house for _____ | <input checked="" type="checkbox"/> other: follow instructions of probation |
| <input type="checkbox"/> community service: _____ hours | <input checked="" type="checkbox"/> other: notify probation within 72 hours of being questioned by law enforcement |
| <input type="checkbox"/> Pay restitution at \$100.00/mo, 100%, no chnge exemp., interest waived | |
| <input type="checkbox"/> cooperate with I.N.S. | |
| <input type="checkbox"/> cooperate with I.R.S. | |
| <input type="checkbox"/> pay child support & arrearage | |
| <input type="checkbox"/> other: use best efforts to secure employment and support dependents | |

Special Assessment

\$100.00 on each of Counts One and Two, for a total of \$200.00

- ☒ To be paid immediately to the Clerk of Court, Room 362
- ☐ To be paid prior to expiration of this sentence.

Forfeiture

Terms: N/A

Custody Status

- ☒ Defendant remanded to custody of U.S. Marshal.
- ☐ Defendant Voluntary surrender to institution on or after _____
- ☒ Defendant advised of right to appeal.
- ☒ Recommendations for BOP: Placement at FCI Oxford or at a location most near the E.D. Wis.

Other

- ☐ Upon motion of government, Count _____ be and the same is/are hereby DISMISSED

STATEMENT OF REASONS

- ☐ The Court adopts the factual findings and guideline application in the presentence report
or
- ☒ The Court adopts the factual findings and guideline application in the presentence report
except as noted at sentencing.

Guideline Range Determined by the Court:

Total Offense Level: 40

Criminal History Category: VI

Life imprisonment

At least 2 years but not more than 5 years supervised release

\$25,000.00 to \$250,000.00 fine

\$100.00 special assessment per Count for a total of \$200.00

- ☒ Fine is waived or is below the guideline range because of def.'s inability to pay.
- ☐ Full restitution is not ordered for the following reasons:

- ☐ The sentence is within the guideline range, that range does not exceed 24 months, and the
Court finds no reason to depart from the sentence called for by application for the guidelines
or
- ☐ The sentence is within the guideline range, that range exceeds 24 months, and the sentence
is imposed for the following reasons:
or
- ☒ The sentence departs from the guideline range for reasons set forth at sentencing